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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,350	03/24/2004	Frank Rosemann	A-10040	5378

181 7590 01/31/2005

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,350

Applicant(s)

ROSEMANN ET AL.

Examiner

Kofi A. Schultenbrandt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-11, 13-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 2, 12 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 032404.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This first Office Action is in response to Applicant's originally filed Application received in the Office on March 24, 2004 in this case.

Priority

Receipt is acknowledged of papers (GERMANY DE 103 13 411.5 03/25/2003) submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on March 24, 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1-20, the phrase "rod-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually

disclosed (those encompassed by "like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Furthermore, claims 7 and 15 are ambiguous because applicant claims a holder for rod-like objects indicating that the holder and not the rod-like object is positive claimed, however claims 7 and 15 appear to be claiming the rod-like object. The claim rejections below consider the sub-combination of the holder to be claimed and not the combination of the holder and the rod-like object. No weight has been given to the rod-like object below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-5, 7-11, 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Andronica (5,799,907). Andronica teaches each feature of the claimed invention as shown and discussed below. Andronica teaches a mounting portion (42) (See col. 3, Ins. 66 and 67), holding arms (38, 39 and 102; Figure 8), a retaining element ((70); Figure 3), and open position ((102) and (70) not engaged yet), a closed position ((102) and (70) engaged), a guide (between 36, 38, 40 and 102; Figure 9), a wedge-shaped segment (94; Figure 9), a slide ((98); Figure 7), a rib ((52); Figure 7), a rod-like object ((20); Figure 7), a prism shaped guide groove (between (38, 39 and 102); Figure

9), a guide segment/arms opposed to the holder arms ((96); Figure 7), catch ((62); Figure 7), and retaining elements ((39); Figure 9).

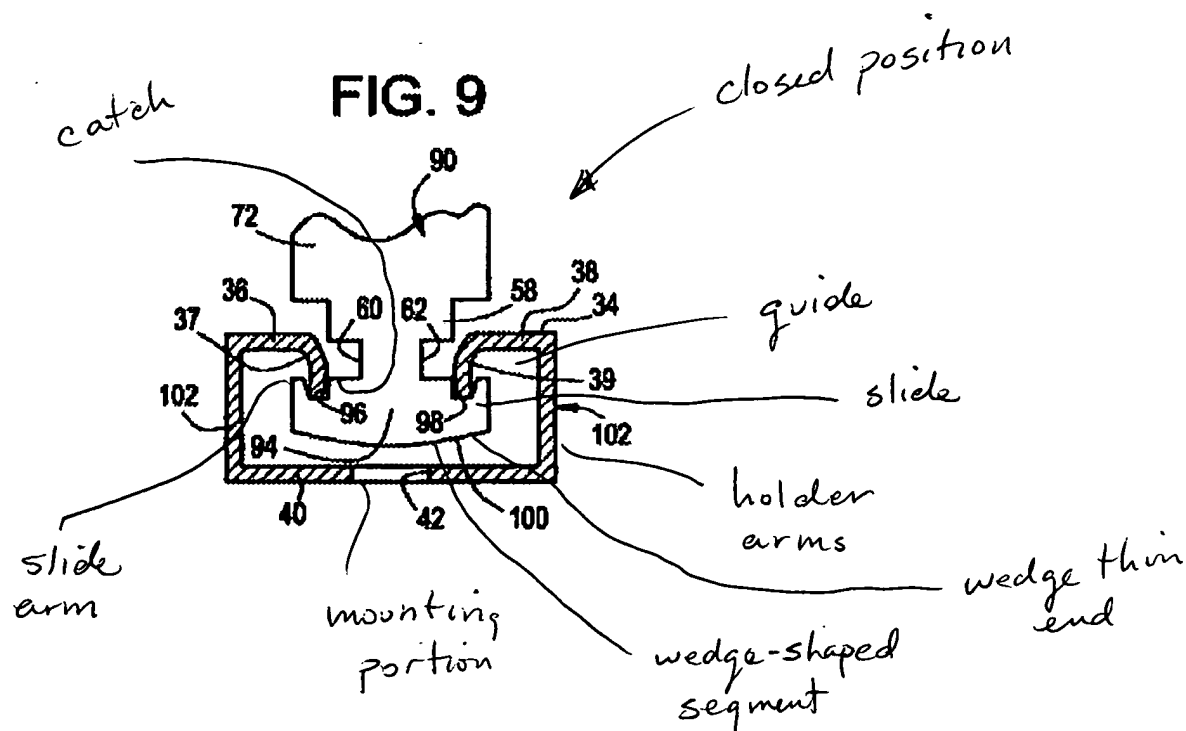
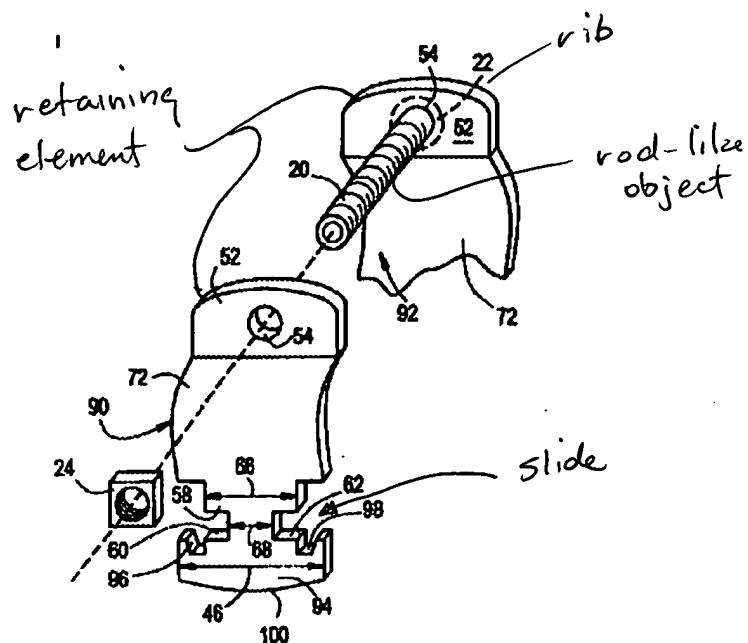
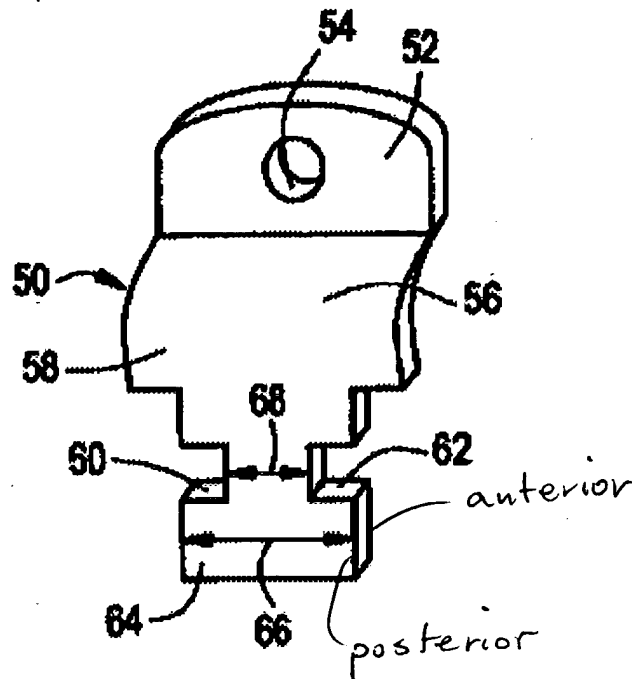


FIG. 2



Claim Rejections - 35 USC § 103

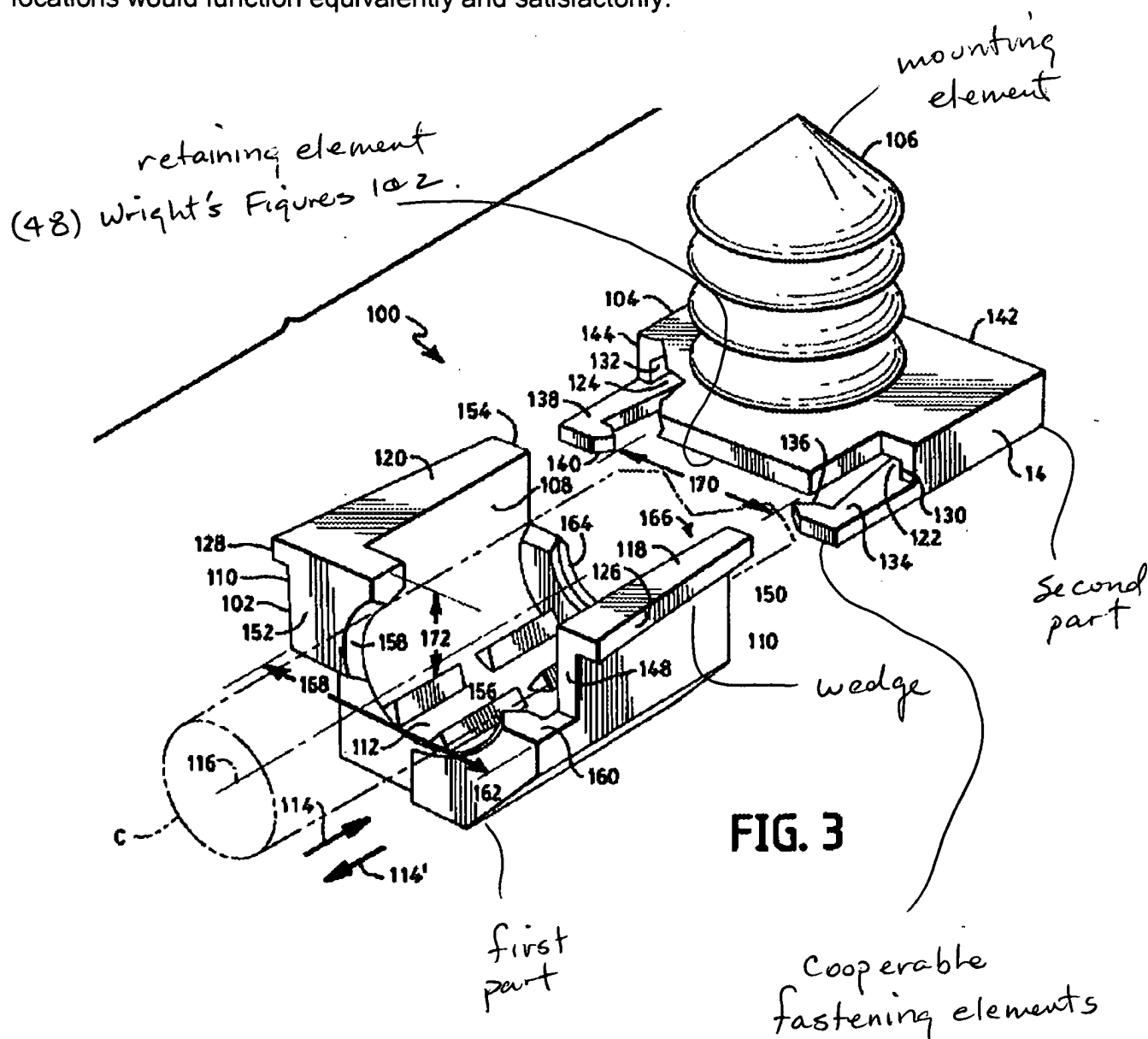
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (5,803,414). Wright (Figure 3) teaches, substantially, each feature of the claimed invention as shown and discussed below. Wright (Figure 3) does not teach a protuberance (48) as taught in Wright (Figures 1 and 2) that would move longitudinally into the trough or a mounting element below the trough. However, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified

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(Figure 3) to have a protuberance as taught by (Figures 1 and 2) in order to better stabilize the cable within the support. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified Wright's Figure 3 to have its mounting element (106) below its trough as taught by Figure 1 as both locations would function equivalently and satisfactorily.



Allowable Subject Matter

Claims 2, 6, 12 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for Indicating Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 2, the prior art of record does not teach in combination with the other features of claim 1, a retaining element that is connected to a holding element portion in a position corresponding to the open position by bridges of material that must be readily broken when the retaining element is moved to the closed position. Regarding claim 6, the prior art of record does not teach in combination with the other features of claim 5, a connection between the anterior end of the retaining segment and the anterior end of the slide comprises an elastically deformable segment which holds the retaining element in the open position and upon movement of the slide to the closed position, makes possible the closing movement of the retaining element by elastic deformation. Regarding claim 12, the prior art of record does not teach in combination with the other features of claim 10, spring tongues arranged on the holder arms or on the slide arms bearing hooks at their free ends grasping the slide or the holding portion in the closed position. Regarding claim 19, the prior art of record does not teach in combination with the other features of claim 16, a holder wherein the second part is initially connected to the first part by frangible elements that are broken in response to

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pressure exerted on the second part to move the second part into the trough of the first part.

Prior Pertinent Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. '794 to Saito teaches a rod holder.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kofi Schulterbrandt
January 26, 2005